Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of:	)	
	)	
Authorizing Permissive Use of the "Next Generation" Broadcast Television Standard	)	**GN Docket No. 16-142**

Filed via ECFS
To: Chief, Media Bureau

COMMENTS OF WATCHTV, INC.

1. WatchTV, Inc. ("WatchTV") hereby submits these Comments in response to the Commission's *Notice of Proposed Rulemaking* ("*NPRM*") in the above-captioned proceeding, 32 FCC Rcd. 1670 (2017).[1] WatchTV is the licensee of seven Class A and seven Low Power Television ("LPTV") stations,[2] all operating in the State of Oregon. It is an enthusiastic supporter of advanced broadcast technologies generally and the new ATSC 3.0 standard in particular and is currently exploring the capabilities of ATSC 3.0 under a granted and constructed experimental authorization covering four of its Class A stations in Portland.

2. WatchTV urges the Commission to grant all television broadcasters the discretion to convert to ATSC 3.0 at a date of their own choosing, including during the spectrum repacking process when much equipment will be replaced, and not to withhold approval until after completion of repacking. The transition to ATSC 3.0 will be much less difficult for the public than the transition from analog to digital was, so it is an excellent opportunity to allow the marketplace to dictate the pace of implementation. A special effort should be made to impose the

[1] FCC 17-13, rel. 2/23/2017.

[2] WatchTV's President and principal owner individually holds a license for an eighth LPTV station.

fewest possible burdens on Class A and LPTV stations, as the operators of these stations have the fewest economic resources among television broadcasters and have more business flexibility to explore and to deploy new innovative technologies. Market forces are more than sufficient to ensure that the needs of viewers will not be ignored.

3. Specifically, WatchTV urges the Commission to allow Class A and LPTV stations to convert to ATSC 3.0 whenever they are ready. Stations should be permitted to take advantage of the full capabilities of the new standard from the outset, including deploying distributed transmission ("DTS") gap fillers. There is no need to impose the burden of "lighthouse" (simultaneous ATSC 1.0 alongside ASTC 3.0) transmission or extensive consumer education burdens on Class A and LPTV stations. Finally, the requirement to provide at least one free "broadcast" stream should be satisfied by a stream transmitted in either the 1.0 or the 3.0 standard.[3]

4. Transition Timing Should Be Guided by Broadcaster Discretion. Governmental standards-setting takes time and thus most often falls behind the rapid pace of modern technological development. While ultimately, the Commission may decide to adopt a uniform basic ATSC 3.0 component, ATSC 3.0 is an inherently flexible technology, and standards-setting should not be allowed to impede its developmental progress. Stations should be free to make their own standards choice when they feel that a reasonable selection of receiving devices is available to consumers. The Commission should not fear that broadcasters will make premature decisions and leave consumers without adequate television service, for two reasons. First, broadcasters should be expected to act in their own best interest, and their own best interest is to maximize the number of their viewers. Therefore, they will not abandon ATSC 1.0 for ATSC 3.0 until they are

[3] These Comments do not address how stations taking advantage of "flexible use" pursuant to Section 6403(b)(4)(B) of the *Middle Class Tax Relief and Job Creation Act of 2012* should satisfy their broadcasting requirement.

confident that they will reach a sufficient portion of the public to allow their businesses to earn income. Second, consumers will be able to receive ATSC 3.0 signals without replacing their television receivers, the way they had to during the transition from ATSC 1.0 to ATSC 3.0. They will need some kind of tuner-adapter, which may start off as a set-top box but should soon evolve into a dongle that can simply be plugged into a receiver's HDMI and/or USB port. WatchTV believes that it will not take long for the price of a dongle to fall to the point where broadcasters may choose to promote their stations by selling dongles for $10 or even giving dongles away. Thus the thought that consumers might be left in the lurch by leaving timing to the discretion of each individual broadcaster is not justified, given that this time, the transition will take place all within the digital realm and will be largely software- rather than hardware-guided.

5. Economic Incentives Are Strong for Class A and LPTV. The importance of allowing each broadcaster to make its own rational business choice is all the more compelling for Class A and LPTV stations. Few of these stations are carried by multichannel video program distributors ("MVPDs"), so there is little risk that a Class A or LPTV station will transition prematurely to ATSC 3.0 on the theory that most of its viewers watch on cable or satellite. On the contrary, the vast majority of Class A and LPTV stations rely on over-the air viewing, so they will react quickly and responsively to the needs and desires of their viewers. Moreover, these broadcasters have the greatest economic incentive to improve their stations, because their business model has changed since the digital transition. Prior to the digital transition, many Class A and LPTV stations were affiliated with smaller networks, which provided an important source of programming and a revenue stream. When ATSC 1.0 digital service was implemented, full power stations attracted many of the more profitable minor networks to their multiple streams, leaving Class A and LPTV stations to find other programming sources that usually provided reduced

revenue support. These stations have not yet fully recovered from their programming losses. Many of them rely on operating six or more digital streams and will benefit significantly from the greater number of streams available in the ATSC 3.0 standard. Minority, ethnic, and niche audiences will benefit as well, as new networks that seek to reach these specialized audiences will be able to get access to over-the-air distribution.[4]

6. The Class A and LPTV Business Model Needs a Makeover. The deterioration of support from larger networks has shrunk Class A and LPTV audiences, making it unnecessary to impose a "lighthouse" requirement on these stations. **Moreover, there are fewer Class A and LPTV than full power stations in all but the smallest markets; so finding a station to act as a lighthouse may turn out to be impossible.** Likewise, consumer notices of a station's impending transition are less important. WatchTV suggests that the Commission adopt the same 4% standard that it applies to "failing station" waivers of its multiple ownership rules,[5] exempting any station with not more than a 4% all-day audience share in its Designated Market Area ("DMA")[6] from transition timing, lighthouse, and consumer notification requirements that might otherwise apply.

7. Interference Protection Will Be Adequate. The replacement of 8VSB with OFDM technology, when television moves from ATSC 1.0 to ATSC 3.0, will offer significant advantages in terms of interference management and control, because ATSC 3.0 has a large number of separate carriers that can be turned on and off as needed. This increased robustness dictates that the

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[4] The federal government will also benefit from early transition, because the increased data capacity of the ATSC 3.0 format should improve the prospects for ancillary services that pay 5% of their revenue to the Commission. *See* 47 CFR § 73.624(g)(2).

[5] 47 CFR § 73.3555.

[6] *See, e.g., Schurz Communications, Inc.*, 31 FCC Rcd. 1113 (MB 2016).

Commission may continue to rely on existing (though evolving) TVStudy software for interference prediction. It should be possible to develop even better software that will reflect ATSC 3.0's greater interference immunity and controllability, which should make it possible to accommodate more of the LPTV stations that will be displaced during the spectrum repack. However, for the time being, TVStudy will provide sufficient, if not excess, protection to and from stations operating in the same 3.0 format or in different 1.0 and 3.0 formats.

8. Distributed Transmission Systems Should Be Encouraged. OFDM modulation, with its large number of controllable carriers, will make it easier than ever for TV stations to fill in gaps in their signal coverage areas with small on-channel transmitters, often known as "gap fillers." It will no longer be necessary, or even appropriate, to tie up a second channel to fill in a coverage gap, the way that some stations operate today. Because only one channel will be used, gap fillers will create an effective single-frequency network,[7] causing no increased interference risk. The Commission should permit, and even encourage, the deployment of gap fillers by authorizing them automatically if they are configured essentially like a telephone cell, with an effective radiated power of not more than one kilowatt and an antenna no more than 100 meters above average terrain.

9. How "Broadcast" Service Should Be Maintained. The Commission made it clear in the NPRM that it expects TV broadcasters to continue to broadcast and to meet whatever public interest standards apply to their class of station.[8] The Commission noted that "broadcasting" is

[7] WatchTV's experimental operation in Oregon uses four channels, thus creating a multi-frequency network, and includes gap fillers. WatchTV hopes to show that operating more than four channels in a coordinated manner can result in efficiency that exceeds four times the efficiency of one channel and will provide enormous opportunities for coordinated operation of the transmission plants of stations on different channels.

[8] *NPRM* at ¶¶64-70.

defined as "the dissemination of radio communications intended to be received by the public, directly, or by intermediate relay stations."[9] Nothing in that definition requires that every station in a given service must transmit with the same format,[10] and there is no justification for the Commission to impose such a requirement on the transition to ATSC 3.0. The Commission correctly cited the *Subscription Video* case[11] for the proposition that broadcasting is negated when the party transmitting the content controls reception through a requirement to register and pay a fee enforced through encryption. Otherwise, if a signal is disseminated into the air with no requirement to register or to pay to receive, and receivers are available from outside sources that can display the picture and sound without proprietary decryption, then the entity transmitting that signal is "broadcasting" within the meaning of the Communications Act. Thus as long as a free and uncontrolled video program stream is provided by a TV station, regardless of format as long as it is not encrypted and receivers are available to the public from outside sources, that station should be deemed to remain a broadcast station and be eligible to retain its license and to choose its own unencrypted format.

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[9] Citing 47 U.S.C. § 153(7).

[10] Indeed, when FM radio was developed, no one found that it was improper for some stations to transmit with amplitude modulation (AM) and others with frequency modulation (FM), even though there was no compatibility whatsoever between the formats in terms of radio receivers. FM was called a separate service for some purposes, but it remained part of "radio." Radio stations transmitted with incompatible formats, with very few FM receivers in use by the public; yet all of them were still "broadcasting."

[11] *Subscription Video*, Report and Order, 2 FCC Rcd 1001, 1006, ¶ 41 (1987) (concluding that subscription TV and DBS services are not "broadcasting" within the meaning of the Communications Act), aff'd, *National Association for Better Broadcasting v. FCC*, 849 F.2d 665, 669 (D.C. Cir. 1988), cited in the *NPRM* at fn. 152.

10. It's Time to Take the Plunge. The Class A and LPTV industries need to take the plunge into the ATSC 3.0 revolution to survive. Many, including WatchTV, are ready and anxious to do so. Transmitter manufacturers made it clear at the recent NAB TV Show that they are ready to provide the equipment needed for Class A and LPTV stations to make the transition. The problem of adapting receivers is so simple that the Commission can only disserve the public by shackling Class A and LPTV stations with time delay and administrative and operational burdens. We have an excellent example of marketplace opportunity. The Commissioners have often voiced their support for such opportunity. WatchTV urges the Commission to act consistently with its own words and to let at least Class A and LPTV broadcasters, if not all TV stations, take the plunge whenever they think best.

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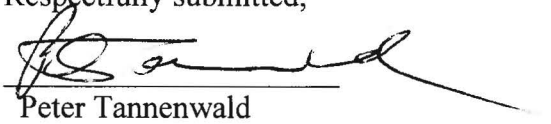
Respectfully submitted,



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